



Initial COBRA Notification of Rights and Obligations

Federal law requires the City of San José to offer all covered active employees and their covered spouses/domestic partners and dependents (“Qualified Beneficiaries”) the opportunity to elect a temporary extension of their health and welfare plan coverage (called “Continuation Coverage,” “COBRA Continuation Coverage,” or “COBRA Coverage”) in certain instances where coverage under a group plan would otherwise end. A group health plan includes any major medical plan, dental plan, vision plan, health Flexible Spending Account (FSA) or other plan sponsored by the City that provides medical care. For simplicity, any such group health plan is referred to in this notice as the “Plan.” You will have to pay the entire premium for your COBRA Coverage.

Coverage

“Qualified Beneficiaries” are generally the employee, the employee’s spouse/domestic partner or dependent children who are covered by the Plan on the day before a “Qualifying Event.” This notice is to provide you, your covered spouse/domestic partner and covered dependents (all of whom may be Qualified Beneficiaries if Plan coverage is lost) with a brief summary of your rights and obligations under current COBRA law.

Both you and your spouse/domestic partner should read this notice carefully and keep it with your records.

You must notify the Plan Administrator in writing with the current addresses of covered dependents who do not reside with you and with any change of address for yourself so that the Plan Administrator can send this and other notifications to you and your dependents.

Qualifying Events

Qualifying Events are defined as certain events that cause an individual to lose health coverage. The type of Qualifying Event will determine the amount of time a Plan must offer their health benefits to Qualified Beneficiaries under COBRA.

Qualifying Events for the Employee

If you are a covered employee, you have the right to elect COBRA Coverage for yourself and/or your dependents if you lose Plan coverage because of any of the following Qualifying Events:

- ◆ Voluntary or involuntary termination of your employment (for reasons other than your gross misconduct).
- ◆ Reduction in the hours of your employment.

Qualifying Events for Spouses/Domestic Partners

If you are the covered spouse or domestic partner of an employee, you have the right to elect COBRA Coverage if you lose Plan coverage because of any of the following Qualifying Events:

- ◆ The death of your spouse/domestic partner.
- ◆ Voluntary or involuntary termination of your spouse’s/domestic partner’s employment (for reasons other than gross misconduct) or reduction in your spouse’s/domestic partner’s hours of employment with the City of San José.
- ◆ Divorce or legal separation from your spouse or dissolution of domestic partnership.

Qualifying Events for Dependent Children

If you are the covered dependent child of an employee, you have the right to elect COBRA Coverage if Plan coverage is lost because of any of the following Qualifying Events:

- ◆ Voluntary or involuntary termination of your employee parent’s employment (for reasons other than gross misconduct) or reduction in your employee parent’s hours of employment with the City of San José.
- ◆ The death of the employee parent.
- ◆ Parent’s divorce or legal separation.
- ◆ You cease to be a “dependent child” under the terms of the Plan(s).

Required Notifications from the Employee, Spouse/Domestic Partner and Dependent(s)

If a spouse/domestic partner or dependent child loses coverage under the Plan(s) due to a divorce, legal separation, or the loss of a child's dependent status under the terms of the Plan(s) then under COBRA, you (the employee) or your spouse/domestic partner or dependent child have the responsibility to provide written notice to the Plan Administrator of the divorce, legal separation, or loss of a child's dependent status under the terms of the Plan(s). The employee or covered spouse or covered dependent must give this written notice within 60 days of the date of the event or the date coverage terminates under the terms of the Plan(s) because of the event, whichever is later.

If you or your family member fails to notify the Plan Administrator during the 60-day period, the individual losing coverage will NOT be offered the option to elect COBRA Continuation Coverage.

Required Notification from the Employer

Within 30 days of the date of the loss of coverage due to the employee's termination or reduction in hours, or death the employer is required to notify the Plan Administrator of the loss of coverage.

Required Notification from the Plan Administrator

Upon receiving notice of a divorce, legal separation, dissolution of domestic partnership, a child losing dependent status, the covered employee's termination of employment, reduction in hours, or death of the employee, the Plan Administrator will notify the affected Qualified Beneficiary of the right to elect COBRA Continuation Coverage within 14 days (no action is required by employee, spouse/domestic partner, or dependent).

Election of Continuation Coverage

The Qualified Beneficiary (the employee or the spouse/domestic partner or dependent children) must elect COBRA Continuation Coverage within 60 days after the Plan coverage ends or within 60 days after the Plan Administrator provides you or your covered dependent(s) with notice of the right to elect COBRA Continuation Coverage, whichever is later.

If you or your spouse/domestic partner and dependent children do not elect COBRA Continuation Coverage within this 60-day election period, you will lose your right to elect COBRA Continuation Coverage.

Each Qualified Beneficiary who was covered by the Plan on the day before the Qualifying Event has independent election rights to COBRA Continuation Coverage. You (the employee) and/or your spouse/domestic partner may elect COBRA Continuation Coverage for all qualifying family members. The covered employee, spouse/domestic partner and dependent child(ren) each have an independent right to elect COBRA Continuation Coverage. Thus, a spouse/domestic partner or dependent child may elect COBRA Continuation Coverage even if the covered employee does not elect it.

A Qualified Beneficiary does not have to show that he/she is insurable to choose Continuation Coverage. However, Continuation Coverage is available to Qualified Beneficiaries subject to their continued eligibility. The Plan Administrator reserves the right to verify eligibility status. If it is determined that an individual is not a Qualified Beneficiary, he/she is not entitled to COBRA Continuation Coverage.

Type of Coverage

If a Qualified Beneficiary chooses Continuation Coverage, the City of San José must provide to COBRA participants coverage that is identical to the coverage provided to similarly situated active employees or family members. If the coverage for similarly situated employees or family members is modified, then COBRA Coverage will be modified in the same way. When a Qualified Beneficiary is first eligible for COBRA Coverage, he/she only has the right to continue the Plan benefits (for example, hospital, medical, prescription drug, dental or vision benefits) he/she had on the day before the event causing the Qualified Beneficiary's loss of coverage. However, a Qualified Beneficiary does have the right to change Plan benefits during the employer's open enrollment period, assuming regular employees may change their Plan benefits during this time. At the same time, a Qualified Beneficiary may add any dependents he/she did not have enrolled at the time of the Qualifying Event (their coverage will depend upon the Qualified Beneficiary continuing coverage under COBRA; dependents added during open enrollment are not considered Qualified Beneficiaries).

Under the provisions of COBRA, each Qualified Beneficiary has a separate right to elect to continue coverage for each of the employer's separate health and welfare plans. For instance, a Qualified Beneficiary could elect to continue his/her group medical coverage and waive the continuation of his/her group dental coverage. The applicable premiums will vary depending on the coverage elected. If a Qualified Beneficiary is covered by a region specific Health Maintenance Organization (HMO), and he/she is moving outside of the HMO service area, additional rights may be available to the Qualified Beneficiary at the time of the event. Please call the Plan Administrator for additional information.

No Coverage During Election Period

A Qualified Beneficiary will not be covered under the Plan(s) during the 60-day election period and 45-day period allowed to pay for the initial premium payment for COBRA Coverage. However, if a COBRA Coverage election is made in accordance with the current COBRA laws and all applicable premiums are paid as detailed in a later section, then coverage under the health and welfare plan(s) selected will be retroactive to the original loss of coverage date in accordance with federal law. Upon timely receipt of a Qualified Beneficiary's properly completed and signed election form, coverage shall be in effect under the applicable Plan. If a medical provider calls for verification of eligibility or benefits during the election period and the Plan Administrator does not have a record of a timely and properly completed election form and payment of premium, the medical provider will be told that the Qualified Beneficiary does not have coverage but that he/she will be covered as of the COBRA effective date provided that a timely and properly completed election form and premium payment are received. Upon timely receipt of a properly completed election form and payment of all applicable premiums, COBRA Continuation Coverage shall be in effect.

Effective Date of Continuation (COBRA) Coverage

For all COBRA Qualifying Events, coverage is lost at the end of the month in which the event occurs. COBRA Continuation Coverage begins the first day of the month following the date of the Qualifying Event. Thereafter, COBRA coverage begins on the first day of each successive month. For example, if coverage ends on April 13 due to a COBRA Qualifying Event, Continuation Coverage must begin on May 1 as breaks in coverage are not permitted.

Premium Payments

You (the employee) or a family member is responsible for all premium payments for your Continuation Coverage. As allowed by federal law, your premium payment will be equal to the cost of the coverage you select plus 2% for administration. Exception: If coverage is being continued during a disability extension, then the premiums will be equal to 150% of the cost of coverage during that 11-month disability extension period. The cost may be 213% of the premiums if COBRA Coverage is further continued under California law when the employee was at least age 60 at the time of termination with a minimum of five (5) years of service with the City.

Premium payments for the "initial premium months" are due by the 45th day after electing Continuation Coverage. The initial premium must cover the period that elapsed from the date of the loss of coverage due to the Qualifying Event to the date paid. If you do not make the payment on time, there is no right to Continuation Coverage. All other premiums are due on the 1st day of the month for which coverage is desired subject to a 30-day grace period. If you do not make the payment within the grace period, COBRA Coverage will be canceled as of the first day of that month.

Your first **payment** and all periodic payments for continuation coverage should be sent to:

Kaiser Health Coverage:

Kaiser Permanente - Direct Pay
PO Box 23059
San Diego, CA 92193-3059

All other Health Plans:

City of San Jose – Finance
Payroll, Attn: COBRA
200 E. Santa Clara St., 4th Floor Tower
San Jose, CA 95113-1905

Maximum Coverage Periods

- 1. 36 Months.** If a spouse/domestic partner or dependent child(ren) Qualified Beneficiary loses group health coverage because of the employee's death, divorce, legal separation, the employee becoming entitled to Medicare after COBRA has been elected or because a Qualified Beneficiary loses status as a dependent under the Plan, the maximum coverage period for the Qualified Beneficiary spouse/domestic partner or dependent child(ren) is three years (36 months) from the date of the initial Qualifying Event.
- 2. 18 Months.** If an employee, spouse/domestic partner or dependent child(ren) Qualified Beneficiary loses group health coverage because of the employee's termination of employment (other than for gross misconduct) or reduction in hours, the maximum Continuation Coverage period (for employee, spouse or dependent child[ren]) is 18 months from the date of termination or reduction in hours or date of loss of coverage if that is later.
- 3. 29-Month Disability Exception.** If an employee or family member is disabled at any time during the first 60 days of the 18-month COBRA Continuation Coverage period, then the maximum period will be increased to 29 months for all enrolled family members provided total disability is determined under Title II (Old Age, Survivors, and Disability Insurance) or Title XVI (Supplemental Security Income) of the Social Security Act; the total disability award occurs within the first 18-months of coverage; and the Plan Administrator is notified within 60 days of the date the final determination of total disability is made by the Social Security Administration.

If a determination is made that the individual is no longer disabled, the individual must provide notice of the determination to the Plan Administrator within 30 days of that finding.

- 4. Second Qualifying Event Exception.** For a spouse or dependent Qualified Beneficiary who has the right to 18 months of COBRA Coverage due to an employee's termination of employment (other than for gross misconduct) or reduction of hours, there is a right to extend coverage an additional 18 months up to a maximum of 36 months in the event of a second Qualifying Event during the 18-month COBRA period. For example, the employee and spouse have continuing coverage under COBRA for 6 months when they divorce; the divorce is a second Qualifying Event that allows the spouse to have continued coverage for an additional 30 months (36 months less the 6 months he/she had already used of COBRA Continuation Coverage).
- 5. Special Rules Involving Employee's Entitlement to Medicare Benefits.** These rules apply to the duration of COBRA Continuation Coverage for spouses and dependents of employees who become eligible for Medicare prior to the Qualifying Event (whether or not coverage is lost at that time): If a Qualified Beneficiary employee first becomes entitled to Medicare benefits under Title XVIII of the Social Security Act (42 U.S.C. 1395-135ggg) before experiencing a Qualifying Event that is a termination of employment or reduction of hours of employment, the maximum coverage period for Qualified Beneficiaries other than the covered employee ends on the later of:
 - a. 36 months after the date the covered employee became entitled to Medicare benefits; or
 - b. 18 months (or 29 months if there is a disability extension) after the date of the covered employee's termination of employment or reduction of hours of employment.
- 6. Shorter Maximum for FSAs.** The right to COBRA Continuation Coverage for a health care Flexible Spending Account (FSA) is limited. An employee may continue coverage if he/she has a balance on account in the health care FSA. The Plan Administrator shall determine if the employee qualifies for COBRA Continuation Coverage. If so, the maximum COBRA period for a health care FSA maintained by the employer ends on the last day of the Plan Year in which the Qualifying Event occurred.

Termination before the End of Maximum Coverage Period

Continuation Coverage of the employee, spouse/domestic partner, or dependent child(ren) will automatically terminate (even before the end of the maximum coverage period) when any one of the following four events occurs:

1. The employer no longer provides group health coverage to any of its employees.
2. The premium for the Continuation Coverage is not paid on time.
3. You (the employee), your spouse/domestic partner, or your dependent child(ren) become covered under another group health plan (as an employee or otherwise), which does not contain any exclusion or limitation with respect to any pre-existing condition that you have other than such an exclusion or limitation which does not apply to or is satisfied by such beneficiary by reason of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). If the other

plan has exclusions or limitations, your COBRA Coverage will terminate after the exclusion or limitation no longer applies (e.g., after a 6-month preexisting condition waiting period expires).

4. You (the employee), your spouse/domestic partner, or your dependent child(ren) become entitled to a 29-month maximum coverage period, but then a final determination is made under the Social Security Act that you are no longer disabled. However, COBRA Continuation Coverage will not end until the month that begins more than 30 days after the determination.

COBRA Extension under California Law

Effective September 1, 2003, terminated employees or employees who have lost medical plan coverage due to a reduction in hours on or after January 1, 2003, may extend their coverage for up to an additional 18 months (not to exceed a total of 36 months of continuation coverage from the qualifying event). The premium cost for this coverage will be 102% of the total cost (except for Blue Shield participants, for which the cost is 110%). This extension is not available for the Health Care Flexible Spending Account.

Open Enrollment Rights and HIPAA Special Enrollment Rights

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) restricts the extent to which group health plans may impose pre-existing condition limitations. If you become covered by another group health plan and that plan contains a pre-existing condition limitation that affects you, your COBRA Coverage cannot be canceled. However, if the other plan's pre-existing condition rules do not apply to you due to HIPAA's restriction on pre-existing condition clauses, then COBRA Coverage can be canceled. You and your covered dependents will receive a Certificate of Creditable Coverage when your coverage under the City of San José health plan ends. You will receive another Certificate of Creditable Coverage when your COBRA Coverage ends.

To waive the pre-existing condition clause, you must have prior Creditable Coverage under another group health plan within the 62 days immediately before the date you enrolled in the Plan. You must receive a Certificate of Creditable Coverage from your Plan Administrator or directly from your past medical plan(s) as proof of prior coverage.

If your dependents were eligible for coverage, but did not enroll in the City-sponsored medical plan because they had other medical coverage, and they lose that other medical coverage, they will be allowed to enroll in the current medical plan during special enrollment periods after their initial eligibility period if certain conditions are met. These special enrollment rules apply to eligible dependents that are not enrolled for coverage under the terms of the Plan. You may also enroll newly acquired dependents under the special enrollment rules.

A dependent is eligible to enroll during special mid-year enrollment periods if the following conditions are met:

- ◆ When you declined enrollment for your dependent(s), your dependent(s) had COBRA Continuation Coverage under another plan and that COBRA Continuation Coverage has since been exhausted (i.e., ceased for any reason); or
- ◆ If the other coverage that applied to your dependent(s) when enrollment was declined was not under a COBRA Continuation provision, either the other coverage has terminated as the result of the loss of eligibility or employer contributions toward that coverage have been terminated. Loss of eligibility includes a loss of coverage as a result of legal separation, divorce, death, termination of employment, or reduction in hours of employment.

Children Born to or Placed for Adoption with the Covered Employee during a COBRA Period

A child born to, adopted by, or placed for adoption with a Qualified Beneficiary during a period of Continuation Coverage is considered a Qualified Beneficiary unless the employee was a Qualified Beneficiary who elected not to continue coverage for himself/herself. The covered employee or other guardian has the right to elect Continuation Coverage for the child if the child satisfies the other applicable Plan eligibility requirements. The covered employee or a family member must notify the Plan Administrator within 30 days of the date of birth, adoption or placement for adoption in order to enroll the child on COBRA, and COBRA Coverage will last as long as it lasts for the other family members of the employee.

If the covered employee or family member fails to notify the Plan Administrator timely, then the covered employee will NOT be offered the option to elect COBRA Coverage for the child.

Note: the newborn or adoptee may be eligible for coverage under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) even if he or she is not a Qualified Beneficiary for purposes of COBRA.

Conversion to an Individual Policy

Upon termination of the maximum COBRA Continuation Coverage period, you and any covered dependents will have the right to convert your coverage to an individual policy if one is available through your Plan. You will be notified of this right within 180 days prior to the end of your COBRA Coverage maximum period.

Notice of Address or Status Changes to Plan Administrator

You must notify the Plan Administrator about address changes, any new marital/domestic partnership status and changes in the status of your dependents.

The Plan Administrator sends COBRA notices to your last known address of record with the employer. The address for a covered employee's spouse/domestic partner or child(ren) shall be the employee's address unless you (employee, spouse/domestic partner or dependent[s]) notify the Plan Administrator in writing of a different address for the spouse/domestic partner or dependent(s). If you or your spouse's/domestic partner's or dependent's address changes, you must promptly notify the Plan Administrator in writing (the Plan Administrator needs up-to-date addresses in order to mail important COBRA and other information). Also, if your marital/domestic partnership status changes or if a dependent ceases to be a dependent eligible for coverage under the Plan(s)'s terms, you or your spouse/domestic partner or dependent must promptly notify the Plan Administrator in writing (such notification is necessary to protect COBRA rights for your spouse and dependent child(ren)). Otherwise, the Plan Administrator shall use your last known address.

Plan Administrator

The City of San José is the Plan Administrator for all group medical care plans. All notices and other communication regarding the Plans, and/or regarding COBRA and HIPAA must be directed to:

City of San José - Human Resources
Employee Benefits, Attn: COBRA
200 E. Santa Clara St., 2nd Floor Wing
San Jose, CA 95113-1905

E-mail: benefits@sanjoseca.gov
Telephone Number: (408) 535-1285

For More Information

If you (the employee), your spouse/domestic partner or dependent child(ren) have any questions about this notice of COBRA rights, please contact the Plan Administrator. Also, please contact the Plan Administrator if you wish to receive the most recent copy of the Plan's Summary Plan Description, which contains important information about Plan benefits, eligibility, exclusions and limitations.

This Initial Notice is not intended to give greater rights than allowed under COBRA. If there is a conflict or ambiguity between the information in this notice and any other COBRA notice you receive from an insurance carrier, this notice shall prevail.